

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE**

45 Fremont Street
San Francisco, CA 94105

**NOTICE OF PROPOSED RE-ADOPTION OF EMERGENCY REGULATION
PURSUANT TO GOVERNMENT CODE SECTION 12921.7**

(COMMUNICATIONS EQUIPMENT AGENT LICENCING REGULATIONS)

ER02026113

October 23, 2003

California Insurance Commissioner John Garamendi ("the Commissioner") hereby provides notice that he will submit the re-adoption of sections 2194 – 2194.8 of Article 11 of Subchapter 1 of Chapter 5 of Title 10 of the California Code of Regulations (CCR) to the Office of Administrative Law for approval pursuant to California Government Code section 11346.1(h).

This Notice contains a description of the problem and the necessity for the regulation, a justification for the emergency regulation and re-adoption, and the text of the emergency regulation.

This Notice is provided to every person who has previously filed a request for notices of regulatory action with the Commissioner. This Notice is also provided to every group and association that has previously filed a request for notices of regulatory action with the Commissioner.

The Department will submit this regulation to the Office of Administrative Law for re-adoption on an emergency basis, along with the Department's rulemaking file, not less than five (5) working days after the mailing of this Notice. Questions regarding this rulemaking action should be directed to:

California Department of Insurance
Legal Division
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DESCRIPTION OF PROBLEM AND NECESSITY FOR REGULATION

Assembly Bill 2856 (Chavez) of 2002 (Chapter 437, Statutes of 2002), effective January 1, 2003, added Article 16.1, commencing with section 1758.6, to Chapter 5 of Part 2 of Division 1 of the California Insurance Code, creating a new category of production agency license to include the Communications Equipment Insurance Agent License. This new statute provides for the Commissioner to issue a communications equipment insurance agent license to a communications equipment vendor, as defined, authorizing the vendor to sell or offer to its

customers insurance covering communications equipment. The statute imposes certain requirements on the licensees and endorsees with respect to training and other related matters.

The statute also contains a provision allowing for the Commissioner's discretion of postponing the processing of the applications for this new license based on the volume received and the determination that sufficient personnel to carry out the provisions of the statute exist or have been authorized in the Budget Act of 2002 or a subsequent budget act. If, however, the Commissioner received 50 or fewer applications before April 30, 2003, the Commissioner is deemed to have sufficient personnel to carry out the provisions of the statute and the statute is immediately operative.

The Department's Licensing Services Division, Administration and Licensing Services Branch, presented several options for implementing the statute. The licensing staff recommended postponement of the decision until April 30, 2003, upon a certainty of the volume of applications received and assessment of the concurrent personnel situation. The statute, however, required that the Department accept applications as of January 1, 2003.

Existing law makes it a crime to act or assume to act in a capacity for which a production agency license is required without having such a license. By creating a new category of production agency license, this statute expands the scope of activities for which a license is required. Thus, this statute also expands the scope of an existing crime. Emergency regulations are necessary to advise applicants of the requirements for the Communications Equipment Insurance Agent License and to establish the guidelines and fees necessary for the Department's immediate acceptance of applications.

The regulation hereby noticed fulfills the legislative mandate by implementing, interpreting, and making specific the provisions of the law.

JUSTIFICATION FOR RE-ADOPTION OF EMERGENCY REGULATION

This regulation is necessary to implement, interpret, and make specific the provisions of California Insurance Code sections 1758.6 through 1758.693.

The Department received 50 or fewer applications before April 30, 2003 and so the statute became immediately operative. According to statute, the Department is deemed to have sufficient personnel to carry out its provisions. However, the Department's Licensing Services Division is still evaluating the applications received and the licensing criteria in order to conform to statute. Further, because of an expected revenue shortfall, the current California budget crisis, and a pending new administration in the Governor's Office, the Department must still determine critical internal operations before promulgating permanent regulations.

TEXT OF THE REGULATION TO BE ADOPTED

The text of the regulation is attached, along with applicable licensing forms as found in Attachments A through G.